

IN THE SENATE

SENATE BILL NO. 1203

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO THE STATE PERSONNEL SYSTEM; AMENDING SECTION 67-5302, IDAHO CODE, TO REVISE THE DEFINITIONS OF THE TERMS "HOLIDAY" AND "OVERTIME WORK," TO ADD A DEFINITION OF "NONEXEMPT EMPLOYEE" AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 67-5302, Idaho Code, be, and the same is hereby amended to read as follows:

67-5302. DEFINITIONS. As used in this chapter, and other applicable sections of the Idaho Code, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context. Such terms and their definitions are:

(1) "Administrative employee" means any person, nonclassified or classified, appointed to a position which meets the criteria set forth in the federal fair labor standards act, 29 U.S.C. ~~section~~ 201, et seq. Final designation of a classified position as "administrative" within this definition shall be made by the administrator of the division of human resources. Exceptions to this designation which do not violate the federal fair labor standards act, 29 U.S.C. ~~section~~ 201, et seq., may be made by the administrator.

(2) "Administrator" means the administrator of the division of human resources in the governor's office.

(3) "Appointing authority" means the officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to make appointments to or employ personnel in any department.

(4) "Class" means a group of positions sufficiently similar as to the duties performed, degree of supervision exercised or required, minimum requirements of training, experience or skill, and other characteristics, that the same title, the same tests of fitness and the same schedule of compensation may be applied to each position in the group.

(5) "Classified officer or employee" means any person appointed to or holding a position in any department of the state of Idaho, which position is subject to the provisions of the merit examination, selection, retention, promotion and dismissal requirements of chapter 53, title 67, Idaho Code.

(6) "Commission" means the Idaho personnel commission.

(7) "Compensatory time" means approved time off from duty provided in compensation for overtime hours worked.

(8) "Computer worker" means any person, nonclassified or classified, appointed to a position which meets the criteria set forth in the federal fair labor standards act, 29 U.S.C. ~~section~~ 201, et seq. Final designation of a classified position as "computer worker" within this definition shall be made by the administrator of the division of human resources. Exceptions

1 to this designation which do not violate the federal fair labor standards
2 act, 29 U.S.C. ~~section~~ 201, et seq., may be made by the administrator.

3 (9) "Department" means any department, agency, institution or office
4 of the state of Idaho.

5 (10) "Disabled veteran" is as defined in section 65-502, Idaho Code.

6 (11) "Eligible" means a person who has been determined to be qualified
7 for a classified position and whose name has been placed on the register of
8 eligibles.

9 (12) "Executive employee" means any person, nonclassified or classi-
10 fied, appointed to a position equivalent to a bureau chief or above as pro-
11 vided in section 67-2402, Idaho Code, or any employee meeting the following
12 criteria:

13 (a) An individual whose primary duty is management of a department, di-
14 vision or bureau; and

15 (b) Who customarily and regularly directs the work of at least two (2)
16 or more other employees therein; and

17 (c) Who has the authority to hire and fire, or to recommend hiring and
18 firing; or whose recommendation on these and other actions affecting
19 employees is given particular weight; and

20 (d) Who customarily and regularly exercises discretionary powers; and

21 (e) Who is classified to a position allocated to the pay grade equiva-
22 lent to two hundred sixty (260) points or higher pursuant to the rating
23 system established by rule.

24 (f) Final designation of a classified position as "executive" in this
25 definition shall be made by the administrator. Exceptions to this des-
26 ignation which do not violate the federal fair labor standards act, 29
27 U.S.C. ~~section~~ 201, et seq., may be made by the administrator.

28 (13) "Exempt employee" means any employee, classified or nonclassi-
29 fied, who is determined to be an executive, professional or administrative
30 employee as defined herein, or who qualifies for any other exemption from
31 cash compensation for overtime under applicable federal law. Final designa-
32 tion of a classified position as exempt shall be made by the administrator.

33 (14) "Full-time employee" means any employee working a forty (40) hour
34 ~~work-week~~ workweek.

35 (15) "Holiday" means the following:

36 January 1 (New Year's Day);

37 Third Monday in January (Martin Luther King, Jr.-Idaho Human
38 Rights Day);

39 Third Monday in February (Washington's Birthday);

40 Last Monday in May (Memorial Day);

41 July 4 (Independence Day);

42 First Monday in September (Labor Day);

43 Second Monday in October (Columbus Day);

44 November 11 (Veterans Day);

45 Fourth Thursday in November (Thanksgiving);

46 December 25 (Christmas).

47 In addition, the term "holiday" shall mean any day so designated by the Pres-
48 ident of the United States or the governor of this state for a public fast,
49 thanksgiving or holiday.

~~In the event that a holiday occurs on a Saturday, the preceding Friday shall be a holiday, and if the holiday falls on a Sunday, the following Monday shall be a holiday.~~

~~A holiday is a day of exemption from work granted to nonexecutive employees during which said employees shall be compensated as if they actually worked. Employees classified as executive exempt are entitled to ten (10) paid holidays per year. If such an employee works on one (1) of the official holidays listed in this subsection, then such employee may take an alternative day off but shall not receive additional compensation wherein eligible employees shall receive paid holiday leave as set forth in this subsection. In the event that a holiday occurs on a Saturday, the preceding Friday shall be the designated holiday, and if the holiday falls on a Sunday, the following Monday shall be the designated holiday.~~

~~Employees shall receive paid holiday leave for holidays if they contribute to the public employee retirement system pursuant to chapter 13, title 59, Idaho Code, or to the optional retirement program pursuant to chapter 1, title 33, Idaho Code, and receive wages, salary or paid leave during the pay period in which the holiday falls, as follows:~~

~~(a) Agency-required work schedule. Such full-time employees shall receive eight (8) hours of paid holiday leave. However, the number of hours of paid holiday leave for such full-time employees who are required by the appointing authority to regularly work more than eight (8) hours on a day on which a holiday occurs shall be equal to the number of hours that they would have been scheduled to work on that day.~~

~~(b) Employee-requested work schedule. Such full-time employees who regularly work more than eight (8) hours on a day on which a holiday occurs pursuant to approved work schedules requested by such employees shall receive eight (8) hours of paid holiday leave. To complete the normal workweek of forty (40) hours, the appointing authority may require such employees to work an alternate schedule during the workweek in which the holiday falls or allow them to use accrued vacation or compensatory time.~~

~~(c) Part-time work schedule. Any such part-time employee shall receive paid holiday leave equal to twenty percent (20%) of the employee's budgeted pay period hours divided by two (2). Such employees shall receive a minimum of four (4) hours, not to exceed eight (8) hours, of paid holiday leave.~~

~~Employees who are eligible for paid holiday leave and who work on a holiday shall receive both paid holiday leave and overtime compensation pursuant to sections 59-1607 and 67-5328, Idaho Code, in the form of compensatory time or cash compensation for holiday hours worked. The appointing authority shall provide compensatory time or cash compensation to employees who work on the actual holiday as well as those who work on the designated holiday; provided however, that an employee who is required to work both days shall only receive holiday paid leave and overtime compensation for one (1) of the days.~~

~~Executive employees. These employees are entitled to ten (10) paid holidays per year. If such an employee works on one (1) of the designated holidays listed in this subsection, then such employee may take an alternative day off but shall not receive additional compensation.~~

Employees who do not contribute to the public employee retirement system pursuant to chapter 13, title 59, Idaho Code, or to the optional retirement program pursuant to chapter 1, title 33, Idaho Code, shall be ineligible for paid holiday leave. Such nonexempt employees who work on a designated or actual holiday shall receive cash compensation or compensatory time at the rate of one and one-half (1 1/2) hours for each hour worked. An employee who is required to work both days shall only receive overtime compensation for one (1) of the days.

(16) "Hours worked" means those hours actually spent in the performance of the employee's job on any day including holidays, and shall not include vacation or sick leave or other approved leave of absence.

(17) "Nonclassified employee" means any person appointed to or holding a position in any department of the state of Idaho, which position is exempted from the provisions of chapter 53, title 67, Idaho Code, as provided for in section 67-5303, Idaho Code.

(18) "Nonexempt employee" means any employee, classified or nonclassified, who is eligible for cash compensation or compensatory time for overtime at the rate of one and one-half (1 1/2) hours for each overtime hour worked, as provided in the federal fair labor standards act, 29 U.S.C. 201, et seq.

(19) "Normal ~~work week~~ workweek" means any forty (40) hours worked during a particular one hundred sixty-eight (168) hour period as previously established by the employee's appointing authority.

~~(1920)~~ "Open competitive examination" means an examination which may be taken by qualified applicants to compete on an equal basis for listing on the register of eligibles.

~~(201)~~ "Overtime work" means time ~~worked on holidays and time~~ worked in excess of forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours, except that in the case of those employees engaged in law enforcement, correctional and fire protection activities characterized by irregular shift work schedules, time worked in excess of one hundred sixty (160) hours in a period of twenty-eight (28) consecutive days shall constitute overtime work within the meaning of this chapter. ~~Such employees may also be paid overtime for specific hours worked in addition to their normal schedules upon emergency declaration by the governor or with the approval of the appointing authority and the board of examiners. Overtime work also means time worked on holidays, with the exception of exempt employees who do not contribute to the public employee retirement system pursuant to chapter 13, title 59, Idaho Code, or to the optional retirement program pursuant to chapter 1, title 33, Idaho Code; such exempt employees who work on a designated or actual holiday shall receive cash compensation at the rate of one (1) hour for each hour worked.~~

~~(212)~~ "Participating department" means any department of the state of Idaho which employs persons in classified positions subject to the merit examination, selection, retention, promotion and dismissal requirements of this chapter.

(223) "Part-time employee" means any employee whose usually scheduled work is less than forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours, and who shall not be entitled to sick leave accruals provided in section 67-5333, Idaho Code, vacation leave provided in section

67-5334, Idaho Code, nor holiday pay as defined in subsection (15) of this section, unless contributions are being made to the public employee retirement system in accordance with chapter 13, title 59, Idaho Code, and rules promulgated by the public employee retirement system board.

(234) "Personnel system" means the procedure for administering employees in accordance with this chapter.

(245) "Political office" means a public office for which partisan politics is a basis for nomination, election or appointment.

(256) "Political organization" means a party which sponsors candidates for election to political office.

(267) "Position" means a group of duties and responsibilities legally assigned or delegated by one (1) or more appointing authorities and requiring the employment of one (1) person.

(278) "Professional employee" means any person, nonclassified or classified, appointed to a position which meets the criteria set forth in the federal fair labor standards act, 29 U.S.C. ~~section~~ 201, et seq. Final designation of a classified position as "professional" within this definition shall be made by the administrator. Exceptions to this designation which do not violate the federal fair labor standards act, 29 U.S.C. ~~section~~ 201, et seq., may be made by the administrator.

(289) "Provisional appointment" means appointment to a classified position pending the establishment of a register for such position and employment shall not be continued in this status longer than thirty (30) days after establishment of a register.

(2930) "Qualifying examination" means an examination or evaluation given to a selected person to determine eligibility for reclassification or appointment to a position in a classification.

(301) "Register" means a list of names of persons who have been determined to be eligible for employment in a classified position as determined on the basis of examination and merit factors as established by the administrator.

(312) "Seasonal appointment" means an appointment to a position which is permanent in nature, but which has intermittent work periods throughout the year.

(323) "Service rating" means a recorded evaluation of work performance and promotional potential of an employee by his supervisor.

(334) "Temporary appointment" means appointment to a position which is not permanent in nature, and in which employment will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period. No person holding a temporary appointment may work in excess of one thousand three hundred eighty-five (1,385) hours during a twelve (12) month period of time for any one (1) department, except upon petition by the appointing authority of the department of lands that demonstrates good cause, the administrator of the division of human resources may extend the one thousand three hundred eighty-five (1,385) hour limit for employees of the department who are required to perform fire suppression activities.

(345) "Vacation leave" means a period of exemption from work granted to employees during which time said employees shall be compensated. The term shall not include compensatory time for overtime work.

(356) "Veteran" is as defined in section 65-502, Idaho Code.